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1950

# c 381 Surveys Act

Ontario

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## CHAPTER 381

## The Surveys Act

## 1. In this Act,

Interpreta-  
tion.

- (a) "Department" means Department of Lands and Forests;
- (b) "Minister" means Minister of Lands and Forests;
- (c) "surveyor" means Ontario land surveyor;
- (d) "regular lot" means a lot the boundaries of which conform to that particular system of survey in which such lot occurs;
- (e) "unbroken lot" means a regular lot the area of which is not diminished or increased by any natural or physical features shown on the original plan;
- (f) "undisputed angle" means an angle of a lot at which an original post, original monument or other original mark intended to define such angle still exists or at which the position of the original post, original monument or original mark can be established by satisfactory evidence;
- (g) the true bearing of a line is the astronomic bearing of the same. R.S.O. 1937, c. 232, s. 1.

2. No survey of land for the purpose of establishing, defining, locating or describing any limit, boundary or angle whatsoever in any township, city, town, village, concession, section, block, gore, reserve, common, lot, mining claim, mining location or other parcel of land shall be valid unless performed by a surveyor. R.S.O. 1937, c. 232, s. 2.

Validity of  
surveys.

## PROCEDURE OF SURVEYOR

3.—(1) Every surveyor shall make and preserve exact and regular field notes of all his surveys and shall also keep a proper record or index of all such field notes and shall exhibit or give copies of the same to any person concerned for a reasonable charge.

Field notes.

(2) Where a surveyor has died and no arrangements have been made, within six months, to place his field notes, records and indices in the custody of a surveyor in active practice, they shall be delivered by the executors of the estate of the

Custody of  
field notes,  
etc., of  
deceased  
surveyor.

deceased surveyor to the Minister who shall hold them until such time as arrangements may be made to place such field notes, records and indices in the custody of a surveyor in active practice.

To be  
deemed  
public  
documents.

(3) During the time such field notes, records and indices are in the possession of the Minister they shall be considered to be public documents and shall be open for inspection by interested parties in accordance with the regulations of the Department for that purpose. R.S.O. 1937, c. 232, s. 4.

Standard  
measure.

4.—(1) The secretary-treasurer of the Association of Ontario Land Surveyors shall, by the standard measure of length deposited with the Department and under such instructions as he from time to time receives from the council of the Association, examine, test and stamp each standard measure of length for the surveyor who brings the same for examination, and for each standard measure so examined, tested and stamped, shall receive a sum, not less than \$1 nor more than \$2 as the council may by by-law determine.

Surveyor  
to procure  
a stamped  
standard  
measure of  
length.

(2) Every admitted and practising surveyor shall procure and shall cause to be examined, corrected, tested and stamped or otherwise certified by the secretary-treasurer a standard measure of length, under the penalty of the forfeiture of his licence or certificate, and shall as often as may be necessary verify by such standard measure the length of his measuring tapes and chains, and shall also verify in the proper manner the accuracy of his other surveying instruments. R.S.O. 1937, c. 232, s. 5.

Chainman's  
oath.

5. A surveyor may require any chainman or other assistant in his employ, before he commences his duties as such, to take an oath to act as such justly and exactly according to the best of his judgment and ability and to render a true account of such duties to the surveyor by whom he is employed, which oath the surveyor employing is hereby authorized and required to administer whenever it may be necessary. R.S.O. 1937, c. 232, s. 6.

When land  
surveyors  
may pass  
over private  
lands.

6.—(1) A surveyor and his duly authorized assistants when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearing of any line or limit whatsoever and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person.

Right to  
enter  
buildings.

(2) For the purpose of obtaining any measurements necessary to a proper and satisfactory performance of the duties of his profession, a surveyor and his duly authorized

assistants shall have the right of entry to any building at a time suitable to the rightful occupant of such building.

(3) Any person who interferes with or obstructs a surveyor in the exercise of any of the powers conferred by subsections 1 and 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 232, s. 7. Penalty for obstruction.

7.—(1) For better ascertaining the original limits of any township, concession, range, lot, mining claim, mining location or other parcel of land, every surveyor may when necessary administer an oath to any person whom he examines concerning any boundary, post or monument or any original land mark, line limit or angle of any township, concession, range, lot, mining claim, mining location or other parcel of land which the surveyor is employed to survey. Administration of oaths by surveyor.

(2) The evidence taken by the surveyor shall be reduced to writing and shall be read over to and be signed by the person giving the evidence, or, if he cannot write, such person shall acknowledge it as correct before two witnesses, who, as well as the surveyor, shall sign the same. Evidence, how to be taken down.

(3) The evidence, and any document or plans prepared and sworn to by a surveyor as correct with reference to any survey performed by him, may be filed and kept in the registry office of the registry division, or in the office of land titles for the district in which the land to which the same relates is situated, subject to be produced thereafter in evidence in any court. Filing evidence, documents.

(4) The fee for receiving and filing the same shall be 25 cents, and the expense of filing shall be borne by the parties in the same manner as the other expenses of the survey. R.S.O. 1937, c. 232, s. 8. Fees

8.—(1) Where a surveyor is in doubt as to the true boundary or limit of any township, city, town, village, concession, section, block, gore, reserve, common, lot, mining claim, mining location or parcel or tract of land which he is employed to survey and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person being tendered his reasonable expenses does not willingly appear before and be examined by the surveyor, or does not willingly produce to him such writing, plan or document, a judge of a county or district court, upon the application of the surveyor or the person employing him, accompanied by an affidavit or statutory declaration of the facts on which the Powers to secure evidence by subpoena.

application is founded, may order a subpœna to issue commanding such person to appear before the surveyor at a time and place to be mentioned in the subpœna and to bring with him any writing, plan or document mentioned or referred to therein.

Service of  
subpœna.

(2) The subpœna shall be served on the person named therein by delivering a copy thereof to him, or by leaving it for him with some grown-up person at his residence, exhibiting to him or to such grown-up person the original.

Penalty for  
disobeying.

(3) If the person commanded to appear by the subpœna after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor, at the time and place appointed in the subpœna, or to produce such writing, plan or document, if any, therein mentioned or referred to, or to give such evidence or information as he may possess touching the boundary or limit in question, the person so summoned shall be guilty of a contempt of the court out of which the subpoena issued, and an attachment may be issued against him by order of the court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of the court. R.S.O. 1937, c. 232, s. 9.

True and  
unalterable  
boundaries,  
what to be  
deemed.

9.—(1) All boundary lines of townships, cities, towns and villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores, reserves, mining claims, mining locations and commons, and all side lines and limits of lots surveyed and all trees marked in lieu of posts and all posts or monuments, marked, placed or planted at the front or rear angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada, or of Canada, or under the authority of the Executive Government of Ontario, or the Minister, shall be the true and unalterable boundaries of the townships, cities, towns, villages, concessions, sections, blocks, gores, reserves, mining claims, mining locations, commons and lots or parcels of land respectively, whether the same upon admeasurement be found to contain the exact width or depth or more or less than the exact width or depth shown on the original plan and field notes or mentioned or expressed in any letters patent, grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land.

Road allow-  
ances and  
commons  
dedicated.

(2) In every township, city, town or village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land or any part thereof which has been surveyed under the authority mentioned in this section,

all allowances for any road, street, lane or common, laid out in the original survey of such city, township, town or village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land, or any part thereof, shall be public highways and commons, and all posts or monuments placed or planted in the original survey to designate or define any such allowance for road, street, lane or common shall designate or define the true and unalterable boundaries of every such road, street, lane or common.

(3) Every surveyor employed to make a survey in any such township, city, town, village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land surveyed originally under the authority referred to in this section, shall be governed by the provisions set out in this Act for a survey in a township. Rules for survey in township to govern. R.S.O. 1937, c. 232, s. 10.

**10.** Where a township, tract or block of land, the whole or any part of which has not been surveyed, has been or is granted by the Crown, the first survey made under the authority of the owner of any unsurveyed part thereof shall have the same force and effect as if made under the authority mentioned in section 9 and all allowances for roads, streets, lanes and commons surveyed in such township, tract or block of land and laid down on the plans of such survey thereof, shall be public highways, roads, streets, lanes and commons, and all lines run and marked in such survey, and all posts or monuments planted or placed in such survey to define any allowance for road, street, lane or common, concession, section, block, gore, parcel or lot of land, shall define the true and unalterable lines and boundaries of such allowances for road, street, lane or concession, section, block, gore, common, parcel or lot of land, and every surveyor employed to make a survey in such township, tract or block of land, shall be governed by the provisions laid down in this Act for surveys in townships surveyed under the authority referred to in section 9. Unsurveyed lands granted in blocks and subsequently surveyed by grantees. R.S.O. 1937, c. 232, s. 11.

**11.—(1)** Where any city, town, village, lot, mining claim, mining location or part thereof, or any parcel or tract of land has been or may be surveyed and laid out and a plan thereof made by a company or individual in accordance with *The Registry Act* or *The Land Titles Act*, all lines or limits shown thereon and the courses thereof, given in such survey and laid down on the plans thereof and all posts or monuments placed or planted in the first survey of such city, town, village, or part thereof, or parcel or tract of land, to designate or define any allowances for road, street or lane, or any commons, lot, block or parcel of land, shall designate and define the true and unalterable lines and boundaries thereof respectively. Re-surveys of surveyed territory under Rev. Stat., cc. 336, 197.

Allowances  
for roads  
laid out by  
private  
owners.

(2) Subject to the provisions of *The Registry Act* and *The Land Titles Act* as to the amendment or alteration of plans, all allowances for roads, streets, lanes or commons, surveyed in any such city, town, village, lot, mining claim, mining location or any parcel or tract of land or any part thereof, which has been or may be surveyed and laid out by companies or individuals and laid down on the plans thereof shall be public highways, streets, lanes and commons.

Methods of  
original  
survey to  
be followed.

(3) Where a surveyor is employed to establish or re-establish the boundaries of any road, street, lane, common, lot, block or parcel of land shown on any such plan, he shall follow the method adopted in making the original survey as shown on the plan or field notes and shall give proportionate dimensions to each lot shown thereon where the original posts or monuments defining the angles of such lot cannot be found or their position satisfactorily established.

Allowance  
for road  
when closed  
to belong to  
adjoining  
owner.

(4) Where under subsection 2 an allowance for a road, street or lane laid down upon a plan is a public highway but the municipal corporation has not assumed it for public use, and the allowance or any part thereof is closed by an alteration of the plan under *The Registry Act*, *The Land Titles Act* or other provisions in that behalf, the allowance or part thereof so closed shall belong to the owners of the land abutting thereon.

How owners  
of abutting  
lands to take.

(5) Where several parcels of land having different owners abut on the allowance or part thereof, so closed, the owner of each parcel shall be entitled to that part of the allowance so closed on which his land abuts to the middle line of the allowance, and where there are several owners of an abutting parcel, each shall be entitled to the like estate or interest in such part as he has in the parcel of land abutting thereon.

When  
allowance  
abutted on  
one side by  
a stream,  
etc.

(6) When any part of the allowance so closed is abutted on one side by another road, street or lane or by a stream, river or other body of water over which the public have rights of navigation or of floating timber, the whole width of such part shall belong to the owners whose lands abut thereon opposite such street, stream, river or water.

Division  
line between  
adjoining  
parcels.

(7) The division line between two adjoining parcels produced to the middle line of the closed allowance or across such allowance in cases coming within subsection 6 shall be the division line between the parts of the closed allowance to which the owners of such parcels are respectively entitled.

Encum-  
brance to  
extend to  
road so  
closed.

(8) When there is an encumbrance on a parcel of land abutting on the allowance or part thereof so closed, it shall extend through and include the part thereof to which the owner of such parcel becomes entitled under this section.

(9) Where any allowance for a road, street or lane is closed under this section, it shall be the duty of the corporation of the municipality in which the allowance for such road, street or lane was vested to execute a conveyance to each owner of that portion of the road allowance which belongs to him under this section, and the corporation shall register the conveyance in the proper registry or land titles office.

Where allowance closed, deed to adjoining owner.

(10) The cost of preparing and registering the conveyance shall be borne by the municipal corporation. R.S.O. 1937, c. 232, s. 12.

Cost of conveyance.

**12.**—(1) Every angle of the exterior boundary of a subdivision plan of any area of land prepared for the purpose of registration under *The Registry Act* or *The Land Titles Act* shall be defined in the survey thereof by a monument made of,

Monuments on subdivision plans.  
Rev. Stat., cc. 336, 197

- (a) stone or reinforced concrete five inches square at the top, eight inches square at the base and not less than three feet, six inches in length, planted so that the top is flush with the ground level; or
- (b) iron in the form of a bar one inch square and four feet long driven into the ground so that the top is flush with the ground level; or
- (c) in the case of exposed solid rock, iron in the form of a bolt one inch square and four inches long cemented or leaded into the rock so that the top is flush with the rock level,

provided that where the nature of the location is such that it is impracticable to fully comply with this subsection, the monument shall be so erected and fixed and of such a type as will represent substantial compliance therewith. 1948, c. 89, s. 1.

(2) All bearings shown on the plan of any such survey shall be referred to one course in the boundary thereof, such course being designated on the plan as the reference line, and the course of such reference line shall be the true bearing which shall be determined by astronomic observation or other satisfactory method.

Bearings of subdivision plans.

(3) One such monument shall be placed at one angle of each street intersection shown on any plan prepared for the purpose of registration.

Monuments at street intersections.

(4) The surveyor shall indicate on such plan the position and form of any such monuments planted in accordance with this section, and shall certify that the plan is prepared in accordance with the provisions of this Act. R.S.O. 1937, c. 232, s. 13 (2-4).

Certificate on subdivision plan.



## MUNICIPAL SURVEYS

Municipal  
survey of  
township  
boundary.

**13.** Where the council of a county deems it advisable that monuments of stone or other durable material shall be placed on the boundary or boundaries of any township or townships situate therein the council may apply to the Lieutenant-Governor in Council to cause a survey to be made and such monuments placed under the direction and order of the Minister and the council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the ratepayers of any township or concession, to be levied on them, in the same manner as any sum required for any other local purposes authorized by by-law may be levied. R.S.O. 1937, c. 232, s. 14.

Municipal  
survey of  
side road  
or concession  
lines.

**14.—(1)** Where in any township, any of the concession road lines and side road lines or parts of the concession road lines and side road lines were not run in the original survey or the survey of any of the concession road lines and side road lines or parts of the concession road lines and side road lines have been obliterated, and owing to the want of such lines the inhabitants of such concessions are subject to serious inconvenience, the council of the township shall, on application of one-half the land owners affected thereby, or may upon its own motion without such application, apply to the Lieutenant-Governor in Council to cause any such line to be surveyed and to be marked by monuments of stone or other durable materials under the direction and order of the Minister, in the manner prescribed in this Act, at the cost of such owners. R.S.O. 1937, c. 232, s. 15 (1), *amended*.

Expenses,  
how borne.

(2) The township council shall cause to be laid before it an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the owners affected thereby in proportion to the benefit received, in the same manner as any sum required for any other purpose authorized by law may be levied, or the council may without a previous estimate levy on such owners in such proportions the amount of the expense when the same has been incurred and ascertained, and the certificate of the Minister certifying the amount of such expense shall be conclusive.

Payment  
out of  
municipal  
funds.

(3) Where an application is made by a township council upon its own motion, the council, if it deems the application to be in the public interest in assisting to determine the boundaries or limits of any public road or highway or the like, may pay out of the general funds of the township either the whole of the expense or such part thereof as the council may deem proper, and in the event of the council paying only part of the expense out of the general funds the council may order

that the remainder of the expense be levied on such owners in proportion to the benefit received. R.S.O. 1937, c. 232, s. 15 (2, 3).

**15.—**(1) The council of any municipality, upon its own motion may, or upon the petition of one-half of the owners of lands affected shall, apply to the Lieutenant-Governor in Council in the same manner as is provided by section 14, to cause a survey to be made and monuments to be placed at the front angle or at the rear angle, or at the front and rear angles of any concession, section, block, gore, lot, mining claim, mining location, common or parcel of land referred to in sections 9, 10 and 11, lying within such municipality, and such monument shall be of stone or other durable material, and shall be placed in position under the direction and order of the Minister in the manner prescribed in this Act. 1941, c. 59, s. 2.

Applica-  
tion for  
survey of  
lot lines.

(2) The cost of such survey shall be defrayed in the manner prescribed by section 14. R.S.O. 1937, c. 232, s. 16 (2).

Cost of  
survey, how  
to be  
defrayed.

**16.—**(1) The Minister shall appoint a surveyor to make any such survey for which application has been made to the Lieutenant-Governor in Council as provided in sections 13, 14 and 15 and on the return in triplicate of the plans and field notes of such survey to the Minister, he shall cause a notice thereof to be published once in each week for four consecutive weeks in a newspaper published in the county or district town of the county or district in which the lands lie, and shall specify in the notice a day not less than 10 days after the last publication on which the report of the survey will be considered and the parties affected thereby heard, and on the hearing the Minister may either confirm the survey or direct such amendments or corrections to be made as he shall deem necessary, and shall confirm the survey so amended or corrected, and the lines or parts of the lines so surveyed and marked and the monuments so planted shall thereafter define and designate such corners, governing points or offsets or such ends of concessions or side road lines or such concession or side roads or parts of concession or side roads or such front or rear angles of lots to all intents and purposes, and the order of the Minister confirming the survey shall be final and conclusive upon all persons and shall not be questioned in any court, and the plan and field notes shall have the same force and effect as an original plan and field notes.

Confirma-  
tion of  
survey.

(2) One copy of such plan and field notes of any such survey so confirmed shall be filed by the Minister in the registry office or office of land titles for the district in which the land is situate.

Filing copy  
of plan and  
field notes  
in registry  
and land  
titles offices.

Special  
lines and  
boundaries.

(3) If in the course of a survey undertaken under sections 13, 14 or 15 it is found necessary to establish any lines, limits or boundaries other than those specifically mentioned in the instructions, the Minister may at his discretion confirm any such line, limit or boundary as part of the survey and require the same to be properly marked with stone or other durable monuments. R.S.O. 1937, c. 232, s. 17.

Expenses of  
survey,  
how paid.

**17.**—(1) All expenses incurred in making any survey and placing any monument under sections 13, 14, 15 and 16 shall be paid to the surveyor making the survey on certificate and order of the Minister by the treasurer of the municipality by whom the application for the survey is made. R.S.O. 1937, c. 232, s. 18.

Where paid  
by Treasurer  
of Ontario.

(2) Where any municipal council or owner making application for a survey under section 13, 14 or 20 is not able to pay the whole of the expenses of the survey, such council or owner may apply to the Lieutenant-Governor in Council to have all or part of the expenses paid by the Treasurer of Ontario out of such moneys as may be voted by the Legislature and appropriated for this purpose, and notwithstanding subsection 1 and section 20 the Lieutenant-Governor in Council may so direct. 1946, c. 94, s. 1.

#### RE-SURVEYS OF SURVEYED TERRITORY

Re-survey  
on order of  
Minister.

**18.**—(1) Where any survey performed in accordance with sections 9 and 10 has become wholly or partially obliterated, and in the opinion of the Minister it is in the public interest that the lines be re-established, the Minister may direct a re-survey to be made for such purpose and the lines to be marked by monuments of stone or other durable material, and upon such direction being made the provisions of subsection 1 of section 16 shall, *mutatis mutandis*, apply.

Confirmation  
of re-surveys  
already  
made.

(2) Where a similar re-survey has been made under the instructions of the Minister before the 1st day of June, 1947, the Minister may, upon compliance with the conditions as to publication of notice and holding a hearing set forth in subsection 1 of section 16, confirm the re-survey, and such confirmation shall have the like force and effect as a confirmation made under the said subsection. 1947, c. 106, s. 1.

Determina-  
tion of lost  
or obliterated  
lot  
angles.

**19.**—(1) Where a surveyor is required to establish for any purpose a front angle of any lot in any concession and the original post or monument marking the angle cannot be found, he shall obtain the best evidence that the nature of the case admits of respecting the position of such post or monument, but if the same cannot be satisfactorily estab-

lished, then the surveyor shall measure the true distance between the two nearest undisputed angles of lots on the concession line, one being on each side of the angle which it is required to establish and shall establish such angle by dividing such distance proportionately as intended in the original survey.

(2) Where that part of the concession line on which such angle is situated has become obliterated, the same shall be established by drawing a straight line between the two nearest places where the same can be ascertained or determined, one being on each side of the angle which it is required to establish.

Determination of obliterated concession lines.

(3) Where a surveyor is required to establish for any purpose a front angle of any lot on a township boundary and the original post or monument marking the angle cannot be found, he shall obtain the best evidence that the nature of the case admits of respecting the position of such post or monument, but if the same cannot be satisfactorily established, then the surveyor shall measure the true distance between the two nearest undisputed angles of lots on the township boundary, one being on each side of the angle which it is required to establish and shall establish such angle by dividing such distance proportionately as intended in the original survey.

Obliterated township boundary.

(4) Where that part of the township boundary on which such angle is situated has become obliterated, the same shall be established by drawing a straight line between the two nearest places where the same can be ascertained or determined, one being on each side of the angle which it is required to establish.

Best evidence in double front concessions.

(5) In the original survey of any township, where more than one row of posts, monuments or marks was planted or made on the concession line, and a post, monument or mark marking the angle of a lot is lost and the position thereof cannot be satisfactorily ascertained, any such post, monument or mark found still standing or the position of which can be satisfactorily determined on the opposite side of the concession road allowance, shall constitute the best evidence as to the position of the post, monument or mark which is lost, and if no such post, monument or mark can be found or so ascertained on the opposite side of the concession road allowance and the position of a post, monument or mark on the centre line of the concession line can be so determined, then such post, monument or mark on the centre line shall be the best evidence for the purpose of establishing the post which is lost.

Where some posts or marks are lost.

Proviso.

(6) Subsections 1 and 3 shall not apply to the front angles of lots directly or indirectly affected by the provisions of section 30.

Idem.

(7) Angles of lots that can be established in accordance with the provisions of section 30 and subsections 3 and 4 of this section shall be undisputed angles for the purpose of subsection 1.

Whole concession line obliterated or not run.

(8) Where a surveyor is called upon to establish as a whole or in part a concession line that has been completely obliterated or was not run in the original survey, he shall establish the same so as to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. R.S.O. 1937, c. 232, s. 19.

Re-establishment of line.

**20.** In any township which has not been organized for municipal purposes, where any concession line or any side line or a part of any such line has been obliterated and it is found necessary to re-establish such line, the Minister may, at the request of any owner or owners of land bounded or affected by such line, order the line to be surveyed and marked by monuments of stone or other durable material in the manner prescribed by this Act and at the cost of such owner or owners, and the provisions of section 16 shall apply *mutatis mutandis* to any survey ordered under this section. 1940, c. 28, s. 26.

Governing lines.

**21.—(1)** Except as provided in subsections 2 and 3, the division or side lines between lots in any concession in any township other than those townships surveyed into sections under the authority of an Order in Council dated 27th day of March, 1829, and subsequent Orders, shall be run,

- (a) if so intended on the same astronomic course as the boundary line of the concession at that end from which the lots are numbered, and if not so intended, or such boundary was not run in the original survey, or is wholly broken by a lake, river or other natural boundary, then on the same astronomic course as the boundary line at the other end of the concession if so intended;
- (b) if not intended to be run on the same course as the boundary line at either end of the concession, such division or side lines shall be run, if so intended, at such angle with the boundary line at that end of the concession from which the lots are numbered as shown on the plan and field notes of record in the Department, and if not so intended or if such end be wholly bounded by a lake, river or other natural boundary, or was not run in the original survey, then at such angle with the boundary line at the other end

of the concession as is shown on such plan and field notes if so intended;

- (c) if neither of such boundaries of the concession were run in the original survey or if the concession is wholly bounded at both ends by a lake, river or other natural boundary then such division or side lines shall be run at such angle with the course of the line in front of the concession as is stated in such plan and field notes or if parts of the line in front of the concession have been run on different courses as shown on such plan and field notes, then at such angles with the course of each of those parts, as is stated in the plan and field notes.

(2) If any division or side line between lots, or proof line intended to be on the same course as the division or side lines between lots, was drawn in the original survey in any concession in any such township bounded at both ends by a lake, river or other natural boundary, or in which the line at neither end of the concession was run in the original survey, the division or side lines between the lots therein shall be run on the same course as such division or side or proof line.

Where division or proof line has been run between lots.

(3) When two or more such division or side lines or proof lines were drawn in the original survey of such concession, so bounded, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered, and the next division or side line or proof line drawn in the original survey, and the last-mentioned line or proof line shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey or to the boundary of the concession towards which the lots are numbered as the case may be.

When more than one such line drawn in original survey.

(4) If in any concession in any such township coming within clauses *a* and *b* of subsection 1, such division or side line or proof line was run in the original survey, it shall govern the course of the division or side lines in such concession on that side of the proof line which is farthest from that end of the concession which is intended to govern the course of the division or side lines in such concession. R.S.O. 1937, c. 232, s. 20.

When proof line to govern.

**22.**—(1) Except as provided in subsection 2, in all those townships which in the original survey were divided into sections, agreeably to an Order in Council bearing date the 27th day of March, 1829, or subsequent Orders, the division or side lines between the lots in all concessions, in any section

How lines to be governed in townships laid out in sections.

or block, shall be governed by the boundary lines of such section or block, in like manner as the division or side lines in townships originally surveyed before that day are governed by the boundary lines of the concession in which the lots are situated; provided that in those sections or blocks the governing boundaries of which are broken by lakes or rivers in such a way that the course thereof cannot accurately be determined on the ground a surveyor when called upon to run any side line in a concession in such section or block, shall run the side line on the astronomic course of the side line as shown on the original plan and field notes thereof of record in the Department. R.S.O. 1937, c. 232, s. 21 (1).

**Exceptions.**

(2) The side lines between all lots in all townships in the Districts of Muskoka and Parry Sound; all townships in the District of Nipissing which lie south of the Mattawan River and Trout Lake; and the Township of Mattawan in that District; all townships in the provisional County of Haliburton; the Townships of Dalton, Digby and Longford, in the County of Victoria; the Townships of Galway, Cavendish, Anstruther and Chandos in the County of Peterborough; the Townships of Tudor, Grimsthorpe, Wollaston, Limerick, Cashel, Faraday, Dungannon, Mayo, Herschel, Monteagle, Carlow, McClure, Wicklow and Bangor, in the County of Hastings; the Townships of Anglesea, Effingham, Abinger, Ashby and Denbigh, in the County of Lennox and Addington; the Townships of Barrie, South Canonto, North Canonto, Clarendon and Miller, in the County of Frontenac, and the Townships of Brougham, Grattan, Wilberforce, Alice, Matawatchan, Griffith, Sebastopol, South Algona, North Algona, Fraser, Richards, Hagarty, Brudenell, Lyndoch, Raglan, Radcliffe, Sherwood, Burns, Jones, Petawawa, McKay, Buchanan, Wylie, Rolph, Head, Maria and Clara in the County of Renfrew shall be run on the astronomic course stated in the plan and field notes of the original survey of record in the Department, but nothing in this subsection shall affect the side lines of any lot in any concession in any section or block in which any side line was run before the 1st day of July, 1897. R.S.O. 1937, c. 232, s. 21 (2); 1945, c. 24, s. 1 (1); 1950, c. 82, s. 1.

**Surveyor's return to township clerk.**

(3) Every surveyor shall on the 31st day of December in each year, make to the clerk of the township a return (Form 1) of all lines run by him in such township under subsection 2. R.S.O. 1937, c. 232, s. 21 (3).

**Governing line, how to determine the course of.**

**23.** Where a surveyor is called upon to determine the astronomic course of any governing line for the purpose of running any side line or other division line in any concession or section, he shall determine the astronomic course of the straight line joining the front and rear ends of such governing

line, and shall run such side or other line on such astronomic course or at an angle therewith, in accordance with the provisions laid down in this Act in that behalf, and where a division or side line is to be run, at an angle with the front line or any part of the front line of any concession, the ends of such front line or part thereof shall be joined as above provided, for the purpose of laying of such angle. R.S.O. 1937, c. 232, s. 22.

**24.** The front of each concession in any township where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that boundary of the concession which is nearest to the boundary of the township from which the concessions thereof are numbered, and where the line in front of any such concession was not run in the original survey, the division or side lines of the lots in such concession shall be run from the angles of lots on the front line of the concession in the rear thereof to the depth of the concession—that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey as shown on the plan and field notes thereof of record in the Department, having due regard to any allowance for a road made in the original survey, and a straight line joining the extremities of the division or side lines of any lot in such concession so drawn shall be the true boundary of that end of the lot which was not run in the original survey. R.S.O. 1937, c. 232, s. 23.

What shall be deemed the front of a concession where only a single row of posts planted.

**25.—(1)** In those townships in which any concession is wholly bounded in front by a river or lake or other natural boundary where no posts or other boundary marks were planted or made in the original survey on the bank of such river, or lake or natural boundary to regulate the widths in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the angles of lots on the concession line in rear thereof to the river, lake or natural boundary in front.

Broken front concessions.

**(2)** Where any concession is bounded in front at either end, in part, though not wholly, by a river, lake or other natural boundary, and no posts or other boundary marks were planted or made in the original survey on the bank of such river, lake or natural boundary to regulate the widths of the lots broken thereby, the division or side lines of such broken lots shall be drawn to the lake, river or other natural boundary in front from points on the rear of the concession determined by dividing proportionately as intended in the original survey

Side lines in broken fronts.



the distance between the end of the concession and the intersection of the last whole lot line of the original survey with the rear of the concession; provided that where such end of the concession is wholly bounded by a lake, river or other natural boundary and no measurement was made in the original survey along the rear of the concession to the lake, river or other natural boundary, the surveyor shall determine the points from which the side lines of such lots shall be drawn by measuring along the rear line the widths of the lots as originally intended from the intersection of the last whole lot line.

Where front is bounded partly by lake, etc.

(3) Similarly where a concession is bounded partly in front by a lake, river or natural boundary and where such lake, river or other natural boundary does not extend to either end of the concession, the points from which the lot lines in that part of the concession so bounded shall be run, shall be determined by dividing proportionately as shown on the original plan and field notes the distance between the intersections of the last whole lot line on either side of such lake, river or other natural boundary with the rear line of the concession. R.S.O. 1937, c. 232, s. 24.

Concessions with double fronts.

**26.—**(1) In those townships in which the concessions have been surveyed with double fronts (that is, with posts or monuments placed or planted on both sides of the allowances for road between the concessions) and the lands have been described in half lots, the division or side lines between such half lots shall be drawn from the angles of lots at both ends of the lot lines to the centre of the concession, and each end of such lot shall be the front of its respective half of such lot and a straight line joining the extremities of the division or side lines of any half lot in such concession, so drawn, shall be the true boundary of that end of the half lot which was not run in the original survey.

Where not full depth.

(2) Where a double front concession is not of the full depth, the division or side lines shall be drawn from the angles of lots at both ends thereof, to the centre of the concession as provided in subsection 1, without reference to the manner in which the lot or parts of lots in such concession were described for patent. R.S.O. 1937, c. 232, s. 25.

Alternate concessions.

**27.** In those townships in which each alternate concession line only has been run in the original survey, but with double fronts, the division or side lines shall be drawn from the angles of lots on each side of such alternate concession lines to the depth of a concession—that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be

of an equal depth or if they were not so intended, then to a depth proportionate with that intended in the original survey, as shown on the plan and field notes thereof of record in the Department; and each alternate concession line shall be the front of each of the two concessions abutting thereon. R.S.O. 1937, c. 232, s. 26.

**28.** Where the front of any concession or half concession in any township surveyed with double fronts is wholly or in part broken by a lake, river or other natural boundary, the rear boundary of the adjacent concession or half concession or part of the concession or half concession shall be established by giving to such adjacent concession or half concession or part of concession or half concession, its regular depth or the depth shown on the original plan and field notes. R.S.O. 1937, c. 232, s. 27.

Broken front  
in township  
with  
alternate  
concessions.

**29.—(1)** In any township that has been surveyed or may hereafter be surveyed into sections or blocks agreeably to an Order in Council dated the 27th day of March, 1829, or subsequent Orders, the division line between the halves of any unbroken regular lot where intended to run from front to rear shall be a line drawn on the same course as it is required to run any side line of such lot which was not run in the original survey from a point on the front of said lot midway between the front angles thereof, and the division line between the halves of any such lot where intended to run from side line to side line across the lot shall be a straight line joining the midway points on the side lines thereof and in dividing any such lot into quarters or other aliquot parts the same methods shall be adopted, but this subsection shall not apply to any such lot the whole or part of which has been patented before the 24th day of March, 1911.

Aliquot  
parts section  
system.

**(2)** Except as provided in subsection 1 and in section 26, every patent, grant or instrument purporting to be for any aliquot part of any concession, block, gore, common, lot or parcel of land in any township, city, town or village shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in the patent, grant or instrument. R.S.O. 1937, c. 232, s. 28 (1, 2).

As to aliquot  
parts of  
townships,  
etc.

**(3)** Where in accordance with this Act an aliquot part of a lot in a concession in a township is the aliquot part of the area of the lot any boundary of such aliquot part not surveyed prior to the 1st day of July, 1944, shall be run on the same course as is required in the case of a side line of the lot not run in the original survey, or parallel to a straight line joining the front corners of the lot, as the case may be, but where in the

Aliquot  
part of lot.

latter case the front of the lot is broken at either end by a lake, river or natural boundary the unsurveyed boundaries of the aliquot part shall be run parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a river, lake or other natural boundary then the unsurveyed boundaries of the aliquot part shall be run on the astronomic course of the part of the concession line in front of the lot as stated in the original field notes, or if such course was not stated in the original field notes, then they shall be run on the astronomic course intended for such concession line or part of concession line according to the instructions for the original survey of the township. 1944, c. 62, s. 1.

When area  
not to  
include land  
covered by  
water.

(4) Where in any survey of Crown lands made under the authority of the Minister, any lot or other subdivision bordering upon a lake or river is given an acreage covering only the land area, such lot or other subdivision shall include the land area only, and not any land covered by the water of such lake or river.

Application  
of subs. 2.

(5) Subsection 2 shall not affect the rights, if any, of any person where such rights have been determined by a court of competent jurisdiction before the 8th day of July, 1913. R.S.O. 1937, c. 232, s. 28 (3, 4).

Location of  
section  
corners.

**30.—**(1) Where the concession line in front of two adjacent sections or blocks in any township heretofore or hereafter surveyed into sections or blocks under the authority of an Order in Council dated the 27th day of March, 1829, or subsequent Orders in Council, is shown on the plan and field notes to be on the same astronomic course, and in one and the same straight line, and the side lines between such sections or blocks and between the adjacent sections or blocks on the opposite side of such concession line as shown on the plan and field notes to be on the same astronomic course and in the same straight line, and the position of the original monuments marking the adjacent corners of such sections or blocks cannot be satisfactorily ascertained, the surveyor shall connect the nearest undisputed points on the concession line in front of such sections or blocks by a straight line and join the nearest undisputed points on the side line between the sections or blocks, and the intersection of these two lines shall be the angle of the adjacent sections or blocks; provided that the undisputed points on the side line to be connected are not more than 20 chains apart, and that one of them is on either side of the concession line, and if such undisputed points on the side line are more than 20 chains apart, the surveyor shall then establish the angle of the sections or blocks by dividing proportionately, as intended in the original survey,

the distance between the two nearest undisputed angles of lots on the concession line in front of such sections or blocks, and the point so ascertained shall be the angle of the sections or blocks.

(2) Where the concession line in front of two such adjacent sections or blocks, is shown on the plan and field notes to be on the same astronomic course and in the same straight line, and the side lines between such adjacent sections or blocks, and the adjacent sections or blocks on the opposite side of the concession line are shown on the plan and field notes not to be on the same astronomic course or not in one and the same straight line, and the post or posts defining the adjacent angles of such adjacent sections or blocks cannot be found nor the position thereof satisfactorily established and the side lines are obliterated in such manner that they cannot be accurately determined, the surveyor shall determine the position of the angles that are lost by division in the same proportion as is shown on the plan or field notes of the distance between the nearest angles of lots on the concession line that can be satisfactorily established, one being on either side of the angles that are lost.

Where side lines between adjacent blocks, etc., are not on same astronomic course.

(3) Where the concession line in front of two such adjacent sections or blocks is shown on the plan and field notes not to be in the same astronomic course or not in one and the same straight line and the side lines between such adjacent sections or blocks and the adjacent sections or blocks on the opposite side of such concession line are shown on the plan and field notes to be on the same astronomic course and in the same straight line and the post or posts defining the adjacent angles of such sections or blocks cannot be found, nor the position thereof satisfactorily established, and the concession line is obliterated, the surveyor shall determine the position of the angles that are lost by division, in the same proportion as shown in the plan and field notes of the distance between the other angles on such side lines of such adjacent sections or blocks.

Where concession line not intended to be straight.

(4) Where both the concession lines in front of the adjacent sections or blocks and the side lines between such adjacent sections or blocks and between the adjacent sections or blocks on the opposite side of the concession line have been obliterated in such manner that they cannot be accurately determined and the post or posts marking the adjacent angles of such sections or blocks cannot be found or their position satisfactorily established, the surveyor shall apply to the Minister, who shall instruct him how to proceed and the angle determined in accordance with the instructions of the Minister shall be the true and unalterable angle of such sections or blocks.

Where concession lines and side lines obliterated.

Angle to be undisputed.

(5) The angle of a section that can be determined in accordance with this section shall be an undisputed angle for the purpose of this section.

Application of section.

(6) This section shall not apply to any angle of a section re-established prior to the 24th day of March, 1911. R.S.O. 1937, c. 232, s. 29.

As to lands in adjoining concessions included in the same grant.

**31.** Where a Crown patent, grant or other instrument has been issued for several lots or parcels of land in concessions adjoining each other, the side lines or limits of the lots or parcels of land therein mentioned shall commence at the front angles of such lots or parcels of land respectively and shall be run as hereinbefore provided, and shall not continue on in a straight line through several concessions, that is to say, each lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same patent, grant or instrument. R.S.O. 1937, c. 232, s. 30.

#### SPECIAL RE-SURVEYS

Former surveys in the Rainy River District adopted.

**32.—(1)** Except as provided in this section the surveys made under instructions from the Department of the Interior of Canada, of certain townships in the Rainy River District the lots immediately upon the bank of Rainy River having a width of 10 chains fronting the river and a varying depth, and the remaining lands so surveyed being subdivided into sections one mile square, and quarter sections of 160 acres, with road allowances around each section are hereby adopted and legalized.

Reduction of width of road allowances.

(2) The road allowances in the townships in the District of Rainy River, surveyed under instructions from the Department of Interior of Canada, shall be and are hereby declared to be one chain in width, such chain allowance to be that lying immediately north and east respectively of the lines of survey run upon the ground in the original survey.

Lands detached to form part of adjoining quarter section or lots.

(3) The strips of land formerly forming parts of the road allowances shall be detached therefrom and attached to and form part of the quarter sections or lots, as the case may be, immediately adjoining the strips of land on the east and north thereof.

Present quarter section or lot posts to remain.

(4) The quarter section posts or lot posts intended to define on the ground the limits of the quarter sections or lots in such townships shall continue to be the governing points, notwithstanding the addition hereby made to the respective quarter sections and lots. R.S.O. 1937, c. 232, s. 31.

**33.** Where a surveyor is employed to run any boundary line of, or any dividing line or limit between any sections, quarter sections or other aliquot parts of any section in any township in the district of Rainy River subdivided into sections in accordance with the Dominion lands system of survey; or in the township of Rutherford in the district of Manitoulin; or in the township of Salter in the District of Sudbury; or in any of the following townships and parts of townships in the district of Algoma, namely, Awenge, Aweres, Dennis, Esten, Fenwick, Fisher, Herrick, Kars, Korah, Laird, Lefroy, Macdonald, Meredith, Palmer, Parke, Pennefather, Prince, Rose, Ryan, Spragge, Tarentorus, Thessalon, Thompson, Tilley, VanKoughnet, Victoria, sections 31 to 36, both inclusive, of Havilland, all that portion of Patton south of the third concession, all that portion of Shedden south of the fourth concession; or in any of the following townships in the district of Thunder Bay, namely, Blake, Byron, Crooks, Homer, MacGregor, McIntyre, McTavish, Pardee; and the post or monument planted, erected or marked in the original survey to define the corner of any such section, quarter section or other aliquot part cannot be found, the surveyor shall obtain the best evidence that the nature of the case admits of respecting such post or monument; but if the position of the same cannot be satisfactorily so ascertained, he shall proceed as follows:

- (a) if the lost post or monument is that of a township corner, he shall report the circumstances to the Minister who shall instruct him how to proceed;
- (b) if the lost post or monument is that of a section or quarter section corner on the boundary line of a township, he shall renew the same by joining the nearest original blazes, quarter section or section corners on such boundary by a straight line and shall give to each section or quarter section a breadth proportionate to that shown on the original plan and field notes thereof of record in the Department, having first taken into account and made due allowance for any roads shown on the plan and field notes;
- (c) if the lost post or monument is that of a section corner in the interior of a township he shall renew the same by intersecting the straight lines adjoining the nearest original blazes or original quarter section or section corners on the adjoining intersecting section boundaries, and where the nearest section corner on any side of the lost post or monument is on a township boundary and that post or monument and also the intervening quarter section posts or monuments are lost, and there are no original blazes between such

Re-surveys  
in townships  
on Dominion  
land system.

corners, the surveyor shall first renew the post monuments on the section corner or corners on such township boundary in accordance with clause *b*;

- (*d*) if the lost post or monument is that of a quarter section corner in the interior of a township, he shall renew the same by joining the nearest original blazes or adjacent section corners determined, if necessary, as hereinbefore provided, and shall give to each of the adjacent quarter sections a breadth proportionate to that shown on the original plan and field notes;
- (*e*) in laying out interior boundaries of half sections or of quarter sections he shall connect the opposite quarter section corners determined, if necessary, as hereinbefore provided, by straight lines;
- (*f*) in laying out interior boundaries of other aliquot parts of any section he shall give to each aliquot part its proportionate share of breadth and interior depth and connect the resulting terminal points by straight lines. R.S.O. 1937, c. 232, s. 32.

Establishment of angles of lots in township in which side lines only were surveyed.

**34.—**(1) Where a surveyor is called upon to establish any front or rear angle or side line of a lot in any township in the original survey of which the side lines only of the lots were surveyed and in which the concession lines were not surveyed and the original monuments defining the position of such angles or side line cannot be found nor the location of the same be satisfactorily ascertained, the surveyor shall measure the true distance between the two nearest undisputed angles of lots on such side lines, one being on either side of the angle which it is desired to establish and shall divide such distance into the number of lots that the same contained in the original survey, making due allowance for any road or roads and giving to each lot its proportionate share of depth, as shown on the original plan and field notes, and shall plant such posts or monuments as he may be required to plant at the lot angles so ascertained and straight lines joining the front angles or the rear angles of a lot so ascertained shall be the true boundaries of those ends of the lot which were not surveyed in the original survey.

To establish side lines.

(2) Where in any such township a surveyor is called upon to establish any side line or part thereof run in the original survey that has become obliterated, he shall join by a straight line or lines the places where such side line can be satisfactorily ascertained and where such line is obliterated at either end, he shall establish such end by measurement only along the township boundary or base line in the manner in which such

measurement was made in the original survey, as shown on the plan and field notes. R.S.O. 1937, c. 232, s. 33.

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FORM 1

(Section 22 (3))

SURVEYOR'S RETURN

Township of.....

County of.....

I hereby certify that the foregoing lot lines in the above township were run by me during the year ending December 31st, 19....., under the provisions of *The Surveys Act*.

Line between..... Concession..... Date.....

Lot..... and lot....., etc., etc.

Dated at....., this..... day of....., 19.....

A. B.,

Ontario Land Surveyor

R.S.O. 1937, c. 232, Form 1.

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